

REMARKS

Upon entry of the foregoing amendments, claims 1 to 23 will be pending in the present patent application. Claims 24-34 have been withdrawn from consideration because it is directed to non-elected subject matter. Applicants reserve the right to pursue the non-elected subject matter in one or more divisional applications prior to issuance of a patent on the instance application.

Discussion of the Restriction Requirement

In the Action, the Examiner required restriction to one of the following two groups of claims under 35 U.S.C. § 121:

- I. Claims 1-23, drawn to ultrasonic processing system, classified in class 366, subclass 127.
- II. Claims 24-32, drawn to a method of providing ultrasonic energy to a pressurized fluid, classified in class 134, subclass 34.
- III. Claims 33-34 drawn to a method of cleaning a wafer, classified in class 134, subclass 1.3.

In response, Applicants elect to prosecute the claims of Group I, **WITH TRAVERSAL**. Applicants, however, respectfully request reconsideration of the Restriction Requirement because the Action has not shown that a serious burden would be imposed upon the Examiner if all of the claims were searched and examined together.

It is well-settled that whether restriction is proper depends upon whether a serious burden exists:

[i]f the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to independent or distinct inventions.

(M.P.E.P. § 803 (8th ed., August 2001)). Applicants submit respectfully that the Action has provided **no** evidence or reasoning to show that the requisite serious burden exists.

Applicants respectfully submit that the examination of Groups I, II and III would *not* present an undue burden on the Examiner because a search for ultrasonic processing systems would yield references that detail the method of *how* such ultrasonic processing systems are used. Thus, searching Groups I, II and III together should not pose an undue burden on the Examiner. Accordingly, reconsideration and withdrawal of the restriction requirement are requested respectfully.

If the present restriction requirement is maintained, Applicants request respectfully that, upon identification of allowable subject matter of the elected product claims, the non-elected method of using claims commensurate in scope with the allowed product claims be rejoined in accordance with MPEP § 821.04. If such should occur, Applicants request the opportunity to further amend the rejoined method claims prior to their examination.

The Commissioner is hereby authorized to charge any fee required and any additional fees or credits that may be needed to Deposit Account No. 01-0493 in the name of Air Products and Chemicals, Inc.

Respectfully submitted,

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